

109TH CONGRESS
2D SESSION

H. R. 6421

To implement the Stockholm Convention on Persistent Organic Pollutants, the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 2006

Mr. GILLMOR (for himself, Mr. BARTON of Texas, and Mr. BOEHLERT) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To implement the Stockholm Convention on Persistent Organic Pollutants, the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution, and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stockholm and Rot-
5 terdam Toxics Treaty Act of 2006”.

1 **SEC. 2. IMPLEMENTATION OF INTERNATIONAL AGREE-**
2 **MENTS.**

3 The Toxic Substances Control Act (15 U.S.C. 2601
4 et seq.) is amended by adding at the end the following:

5 **“TITLE V—IMPLEMENTATION OF**
6 **INTERNATIONAL AGREEMENTS**

7 **“SEC. 501. DEFINITIONS.**

8 “In this title:

9 “(1) CONFERENCE.—The term ‘Conference’
10 means the Conference of the Parties established by
11 paragraph 1 of Article 19 of the POPs Convention.

12 “(2) CONFERENCE LISTING DECISION.—The
13 term ‘Conference listing decision’ means a decision
14 by the Conference to approve an amendment to list
15 a chemical substance or mixture in Annex A or B
16 to the POPs Convention.

17 “(3) EXECUTIVE BODY.—The term ‘Executive
18 Body’ means the Executive Body established by Ar-
19 ticle 10 of the LRTAP Convention.

20 “(4) EXECUTIVE BODY DECISION 1998/2.—The
21 term ‘Executive Body Decision 1998/2’ means the
22 decision of the Executive Body titled ‘Executive
23 Body Decision 1998/2 on Information to Be Sub-
24 mitted and the Procedure for Adding Substances to
25 Annexes I, II, or III to the Protocol on Persistent
26 Organic Pollutants’ and any other Executive Body

1 decision done pursuant to Article 14 of the LRTAP
2 POPs Protocol.

3 “(5) LRTAP CONVENTION.—The term
4 ‘LRTAP Convention’ means the Convention on
5 Long-Range Transboundary Air Pollution, done at
6 Geneva on November 13, 1979 (TIAS 10541), and
7 any subsequent amendment to which the United
8 States consents to be bound.

9 “(6) LRTAP POPS CHEMICAL SUBSTANCE OR
10 MIXTURE.—The term ‘LRTAP POPs chemical sub-
11 stance or mixture’ means one of the following chem-
12 ical substances or mixtures, as defined in section 3:

13 “(A) Aldrin.

14 “(B) Chlordane.

15 “(C) Chlordecone.

16 “(D) Dichlorodiphenyltrichloroethane
17 (DDT).

18 “(E) Dieldrin.

19 “(F) Endrin.

20 “(G) Hexachlorocyclohexane (HCH).

21 “(H) Heptachlor.

22 “(I) Hexachlorobenzene.

23 “(J) Hexabromobiphenyl.

24 “(K) Mirex.

25 “(L) Polychlorinated biphenyls (PCBs).

1 “(M) Toxaphene.

2 “(N) Any chemical substance or mixture
3 that is listed on Annex I or Annex II of the
4 LRTAP POPs Protocol.

5 “(7) LRTAP POPS PROTOCOL.—The term
6 ‘LRTAP POPs Protocol’ means the Protocol on Per-
7 sistent Organic Pollutants to the LRTAP Conven-
8 tion, done at Aarhus on June 24, 1998, and any
9 subsequent amendment to which the United States
10 consents to be bound.

11 “(8) PIC CONVENTION.—The term ‘PIC Con-
12 vention’ means the Rotterdam Convention on the
13 Prior Informed Consent Procedure for Certain Haz-
14 ardous Chemicals and Pesticides in International
15 Trade, done at Rotterdam on September 10, 1998,
16 and any subsequent amendment to which the United
17 States consents to be bound.

18 “(9) POPS CHEMICAL SUBSTANCE OR MIX-
19 TURE.—The term ‘POPs chemical substance or mix-
20 ture’ means one of the following chemical substances
21 or mixtures, as defined in section 3:

22 “(A) Aldrin.

23 “(B) Chlordane.

24 “(C) Dichlorodiphenyltrichloroethane
25 (DDT).

1 “(D) Dieldrin.

2 “(E) Endrin.

3 “(F) Heptachlor.

4 “(G) Hexachlorobenzene.

5 “(H) Mirex.

6 “(I) Polychlorinated biphenyls (PCBs).

7 “(J) Toxaphene.

8 “(K) Any other chemical substance or mix-
9 ture that is listed in Annex A or B to the POPs
10 Convention.

11 “(10) POPS CONVENTION.—The term ‘POPs
12 Convention’ means the Stockholm Convention on
13 Persistent Organic Pollutants, done at Stockholm on
14 May 22, 2001, and any subsequent amendment to
15 which the United States consents to be bound.

16 “(11) POPS REVIEW COMMITTEE.—The term
17 ‘POPs Review Committee’ means the Persistent Or-
18 ganic Pollutants Review Committee established
19 under paragraph 6 of Article 19 of the POPs Con-
20 vention.

21 **“SEC. 502. IMPLEMENTATION OF POPS CONVENTION AND**
22 **LRTAP POPS PROTOCOL.**

23 “(a) PROHIBITION.—Except as otherwise provided in
24 this title, no person may manufacture, process, distribute
25 in commerce for export, use, or dispose of a POPs chem-

1 ical substance or mixture listed in section 501(9) (A), (B),
 2 (C), (D), (E), (F), (G), (H), or (J), or a LRTAP POPs
 3 chemical substance or mixture listed in section 501(6)(A),
 4 (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), or (M).

5 “(b) EXCEPTIONS.—The Administrator may by rule
 6 provide for exceptions to the prohibition under subsection
 7 (a) where such exceptions are not inconsistent with the
 8 obligations of the United States under the POPs Conven-
 9 tion or the LRTAP POPs Protocol.

10 “(c) PCBs.—The Administrator may issue or amend
 11 rules for the purpose of United States compliance with the
 12 provisions of the POPs Convention or the LRTAP POPs
 13 Protocol related to polychlorinated biphenyls through rules
 14 duly promulgated through notice and comment rule-
 15 making under section 6(e) or other applicable Federal law.

16 **“SEC. 503. NOTICE, INFORMATION, RULEMAKING, AND EX-**
 17 **EMPTIONS.**

18 “(a) NOTICE THAT SCREENING CRITERIA ARE MET
 19 OR AFTER RISK PROFILE SUBMITTED.—

20 “(1) APPLICABILITY.—This subsection applies
 21 if—

22 “(A) the POPs Review Committee decides
 23 under paragraph 4(a) of Article 8 of the POPs
 24 Convention, that a proposal for listing a chem-
 25 ical substance or mixture in Annex A, B, or C

1 to the POPs Convention fulfills the screening
2 criteria specified in Annex D to the POPs Con-
3 vention;

4 “(B) the Conference decides under para-
5 graph 5 of Article 8 of the POPs Convention,
6 that such a proposal shall proceed; or

7 “(C) if a party to the LRTAP POPs Pro-
8 tocol submits to the Executive Body a risk pro-
9 file in support of a proposal to list a chemical
10 substance or mixture in Annex I, II, or III to
11 the LRTAP POPs Protocol.

12 “(2) REQUIREMENT.—Not later than 60 days
13 after the date of an action described in paragraph
14 (1), the Administrator shall—

15 “(A) publish in the Federal Register a no-
16 tice of the action; and

17 “(B) provide opportunity for public com-
18 ment on the proposal or risk profile described
19 in paragraph (1).

20 “(3) REQUIRED ELEMENTS OF NOTICE.—A no-
21 tice under paragraph (2) shall include—

22 “(A) the identity of the chemical substance
23 or mixture that is the subject of the proposal or
24 risk profile described in paragraph (1);

1 “(B) a summary of the process, under the
2 POPs Convention or the LRTAP POPs Pro-
3 tocol, for the consideration of the action that
4 was taken, including criteria applied in that
5 process;

6 “(C) a summary of the POPs Review Com-
7 mittee or Conference decisions to date on the
8 proposed listing and the basis for the decisions;
9 and

10 “(D) a summary of how the chemical sub-
11 stance or mixture that is the subject of the ac-
12 tion is currently regulated under the laws of the
13 United States.

14 “(b) NOTICE THAT FURTHER CONSIDERATION OF
15 CHEMICAL SUBSTANCE OR MIXTURE IS WARRANTED.—

16 “(1) APPLICABILITY.—This subsection applies
17 if—

18 “(A) the POPs Review Committee decides,
19 under paragraph 7(a) of Article 8 of the POPs
20 Convention, that global action is warranted with
21 respect to a chemical substance or mixture that
22 is the subject of a proposal to list under an
23 Annex to the POPs Convention;

1 “(B) the Conference decides, under para-
2 graph 8 of that Article, that such a proposal
3 shall proceed; or

4 “(C) the Executive Body determines pur-
5 suant to paragraph 2 of Executive Body Deci-
6 sion 1998/2 that further consideration of a
7 chemical substance or mixture is warranted,
8 and therefore requires one or more technical re-
9 views of the proposal.

10 “(2) NOTICE.—Not later than 60 days after the
11 date on which a decision or determination is made
12 under paragraph (1), the Administrator shall—

13 “(A) publish in the Federal Register a no-
14 tice of the decision or determination; and

15 “(B) provide opportunity for public com-
16 ment on the decision or determination.

17 “(3) REQUIRED ELEMENTS OF NOTICE.—A no-
18 tice under paragraph (2) shall—

19 “(A) identify the chemical substance or
20 mixture that is the subject of the proposal;

21 “(B) include a summary of—

22 “(i) the POPs Review Committee or
23 Conference decision, and the basis for the
24 decision, in the case of a decision described
25 in paragraph (1)(A) or (B);

1 “(ii) the Executive Body determina-
2 tion, and basis for the determination, in
3 the case of a determination described in
4 paragraph (1)(C); and

5 “(iii) the comments received by the
6 Administrator in response to the Federal
7 Register notice published pursuant to sub-
8 section (a)(2)(A); and

9 “(C) request, for a chemical substance or
10 mixture proposed for listing on Annex A or B
11 of the POPs Convention or Annex I or II of the
12 LRTAP POPs Protocol, information and public
13 comment on any present or anticipated produc-
14 tion or use of the chemical substance or mix-
15 ture, including any explanation or documenta-
16 tion of items relating thereto that the United
17 States may use to—

18 “(i) seek an exemption or acceptable
19 purpose under the POPs Convention; or

20 “(ii) allow a restricted use or condi-
21 tion under the LRTAP POPs Protocol.

22 “(c) NOTICE OF CONFERENCE RECOMMENDATION
23 CONCERNING A LISTING OR COMPLETION OF A TECH-
24 NICAL REVIEW.—

1 “(1) APPLICABILITY.—This subsection ap-
2 plies—

3 “(A) if the POPs Review Committee rec-
4 ommends, under paragraph 9 of Article 8 of the
5 POPs Convention, that the Conference consider
6 making a Conference listing decision with re-
7 spect to a chemical substance or mixture in ac-
8 cordance with a proposal; or

9 “(B) after completion of a technical review
10 of the proposal to list a chemical substance or
11 mixture on an Annex of the LRTAP POPs Pro-
12 tocol.

13 “(2) NOTICE.—Not later than 60 days after the
14 date on which a recommendation under paragraph
15 (1)(A) is made or a technical review described in
16 paragraph (1)(B) is completed, the Administrator
17 shall—

18 “(A) publish in the Federal Register a no-
19 tice of the recommendation or completion of the
20 technical review; and

21 “(B) provide opportunity for public com-
22 ment on the recommendation or the technical
23 review.

24 “(3) REQUIRED ELEMENTS.—A notice under
25 paragraph (2) shall include a summary of—

1 “(A) the POPs Review Committee rec-
2 ommendation, and the basis for the rec-
3 ommendation, or of the technical review;

4 “(B) any control measures for the chemical
5 substance or mixture that are proposed by the
6 POPs Review Committee or in the technical re-
7 view;

8 “(C) any control measures for the chemical
9 substance or mixture that exist under the laws
10 of the United States; and

11 “(D) any public comments received by the
12 Administrator in response to the Federal Reg-
13 ister notice published pursuant to subsection
14 (b)(2).

15 “(d) PROVISION OF INFORMATION.—

16 “(1) UNDER POPS CONVENTION.—The Admin-
17 istrator, where relevant, by general order issued in
18 the Federal Register may require any person, or ap-
19 propriate categories of persons, that manufactures,
20 processes, distributes in commerce for export, or dis-
21 poses of a chemical substance or mixture that is the
22 subject of a notice under subsection (a), (b), or (c)
23 to provide information, to the extent such informa-
24 tion is known or readily obtainable, on—

1 “(A) the annual quantity of the chemical
2 substance or mixture that the person manufac-
3 tures and the locations of the manufacture;

4 “(B) the uses of the chemical substance or
5 mixture;

6 “(C) the approximate annual quantity of
7 the chemical substance or mixture that the per-
8 son releases into the environment; and

9 “(D) other information or monitoring data
10 relating to the chemical substance or mixture
11 that is consistent with the information specified
12 in—

13 “(i) paragraph 1 of Annex D;

14 “(ii) subsections (b) through (e) of
15 Annex E; and

16 “(iii) Annex F,
17 to the POPs Convention.

18 “(2) UNDER LRTAP POPS PROTOCOL.—The Ad-
19 ministrator, where relevant, by general order issued
20 in the Federal Register, may require any person, or
21 appropriate categories of persons, that manufac-
22 tures, processes, distributes in commerce for export,
23 or disposes of a chemical substance or mixture that
24 is the subject of a notice under subsection (a), (b),

1 or (c) to provide information, to the extent such in-
2 formation is known or readily obtainable, on—

3 “(A) the annual quantity of the chemical
4 substance or mixture that the person manufac-
5 tures and the locations of the manufacture;

6 “(B) the uses of the chemical substance or
7 mixture;

8 “(C) the approximate annual quantity of
9 the chemical substance or mixture that the per-
10 son releases into the environment;

11 “(D) environmental monitoring data relat-
12 ing to the chemical substance or mixture (in
13 areas distant from sources);

14 “(E) information on alternatives to the
15 uses of the chemical substance or mixture and
16 the efficacy of each alternative;

17 “(F) information on any known adverse
18 environmental or human health effects associ-
19 ated with each such alternative; and

20 “(G) other information or monitoring data
21 relating to the chemical substance or mixture
22 that is consistent with information specified in
23 Executive Body Decision 1998/2 for inclusion in
24 the risk profile or technical review.

25 “(3) UPDATING OF INFORMATION.—

1 “(A) VOLUNTARY UPDATES.—Any person
2 who submits information under paragraph (1)
3 or (2) may voluntarily update the information
4 at any time.

5 “(B) REQUIRED UPDATES.—If the Admin-
6 istrator determines, with the concurrence of the
7 Secretary of State, that an update of informa-
8 tion submitted under paragraph (1) or (2) is
9 necessary, the Administrator may, through a
10 general order published in the Federal Register,
11 require all persons that are required to submit
12 the information to update the information.

13 “(C) NEW INFORMATION.—As part of a
14 general order published under subparagraph
15 (B), the Administrator may require any person
16 who, after the date specified in the general
17 order issued pursuant to paragraph (1) or (2)
18 by which persons are required to submit infor-
19 mation, commences manufacturing, processing,
20 distributing in commerce for export, or dis-
21 posing of a chemical substance or mixture sub-
22 ject to the requirements in paragraph (1) or
23 (2), to submit the information required to be
24 submitted in the general order issued pursuant
25 to paragraph (1) or (2).

1 “(e) ACTION BY THE ADMINISTRATOR UPON NEW
2 LISTING OR OTHER CHANGES.—

3 “(1) RULEMAKING.—

4 “(A) AUTHORITY.—If either—

5 “(i) the Conference decides to amend
6 Annex A or B of the POPs Convention to
7 list an additional chemical substance or
8 mixture; or

9 “(ii) the parties to the LRTAP POPs
10 Protocol decide to amend Annex I or II to
11 the LRTAP POPs Protocol to list an addi-
12 tional chemical substance or mixture,

13 the Administrator may issue rules to prohibit or
14 restrict the manufacture, processing, distribu-
15 tion in commerce for export, use, or disposal of
16 the additional chemical substance or mixture to
17 the extent necessary to protect human health
18 and the environment in a manner that achieves
19 a reasonable balance of social, environmental,
20 and economic costs and benefits. Such costs
21 and benefits include both qualitative and quan-
22 titative costs and benefits. The Administrator
23 may modify rules issued under this paragraph,
24 consistent with the requirements of this para-
25 graph.

1 “(B) SCOPE OF RULEMAKING.—The Ad-
2 ministrator may issue rules under subparagraph
3 (A) only to meet, in whole or in part, the obli-
4 gations of the United States under the POPs
5 Convention or LRTAP POPs Protocol if the
6 United States were to consent to be bound for
7 that applicable amendment referred to in sub-
8 paragraph (A).

9 “(C) EFFECTIVE DATE FOR RULES.—No
10 rule issued under this paragraph shall take ef-
11 fect until the United States has consented to be
12 bound by the amendment agreed to by a deci-
13 sion under subparagraph (A)(i) or (ii).

14 “(2) CONSIDERATIONS.—(A) In taking an ac-
15 tion under paragraph (1), the Administrator shall
16 consider—

17 “(i) the effects of such chemical sub-
18 stance or mixture on health and the mag-
19 nitude and impact of the exposure of
20 human beings to such chemical substance
21 or mixture;

22 “(ii) the effects of such chemical sub-
23 stance or mixture on the environment and
24 the magnitude and impact of the exposure

1 of the environment to such chemical sub-
2 stance or mixture;

3 “(iii) the benefits of such chemical
4 substance or mixture for various uses and
5 the availability, risks, and economic con-
6 sequences of substitutes for such uses, con-
7 sidering factors described in clause (iv);

8 “(iv) the reasonably ascertainable eco-
9 nomic consequences of the proposed prohi-
10 bition or other regulation, after consider-
11 ation of the effect on the national econ-
12 omy, small business, technological innova-
13 tion, the environment, and public health,
14 including the degree to which the manufac-
15 ture, processing, distribution in commerce
16 for export, use, or disposal of the chemical
17 substance or mixture is necessary to pre-
18 vent significant harm to an important sec-
19 tor of the economy; and

20 “(v) national and international con-
21 sequences that are likely to arise as a re-
22 sult of domestic regulatory action (includ-
23 ing the possible consequences of using al-
24 ternative products or processes).

1 “(B) Nothing in this paragraph shall be
2 interpreted to prevent the Administrator from
3 using the information described in paragraph
4 (3), along with any other information provided
5 during the comment period with respect to the
6 rulemaking under paragraph (1), to carry out
7 this paragraph.

8 “(3) ADDITIONAL CONSIDERATIONS.—The Ad-
9 ministrator may also consider—

10 “(A) with regard to chemical substances or
11 mixtures listed in Annex A or B of the POPs
12 Convention—

13 “(i) recommendations of the POPs
14 Review Committee under paragraph 9 of
15 Article 8 of the POPs Convention;

16 “(ii) the Conference listing decision;
17 and

18 “(iii) any information that the United
19 States submits to the POPs Review Com-
20 mittee or to the Conference pursuant to
21 Article 8 of the POPs Convention; and

22 “(B) with regard to chemical substances or
23 mixtures listed in Annex I or II of the LRTAP
24 POPs Protocol—

1 “(i) any technical review conducted
2 pursuant to paragraph 2 of the Executive
3 Body Decision 1998/2;

4 “(ii) the LRTAP POPs Protocol list-
5 ing decision; and

6 “(iii) any information that the United
7 States submitted to the Executive Body, or
8 a subsidiary of the Executive Body, in re-
9 lation to such a technical review or listing
10 decision.

11 “(4) ASSESSMENT OF RISKS OR EFFECTS.—(A)
12 In assessing risks and effects to human health and
13 the environment under paragraph (2), the Adminis-
14 trator shall use sound and objective scientific prac-
15 tices and the best available scientific information, in-
16 cluding peer-reviewed studies.

17 “(B) When taking an action under paragraph
18 (1), the Administrator shall describe the scientific
19 information in the rulemaking record that the Ad-
20 ministrator considered in assessing risks and effects
21 to human health and the environment under para-
22 graph (2), and shall describe the quality of the sci-
23 entific information on which the Administrator
24 based the decision to take action under paragraph
25 (1).

1 “(5) COMMENTS AND INFORMATION PART OF
2 RECORD.—The comments and information received
3 in response to notices or orders published pursuant
4 to subsections (a), (b), (c), and (d) shall be part of
5 the record for a rule promulgated pursuant to this
6 subsection.

7 “(f) EXEMPTIONS UNDER POPs CONVENTION.—

8 “(1) USE-SPECIFIC OR ACCEPTABLE PURPOSE
9 EXEMPTIONS.—Prohibitions or restrictions included
10 in rules issued under subsection (e)(1), and the pro-
11 hibitions described in section 502(a), shall not apply
12 to any manufacture, processing, distribution in com-
13 merce for export, use, or disposal of a POPs chem-
14 ical substance or mixture that the Administrator de-
15 termines, through final rules promulgated under
16 subsection (e)(1), with the concurrence of the Sec-
17 retary of State—

18 “(A) is consistent with—

19 “(i) a production or use-specific ex-
20 emption available to the United States
21 under Annex A or B to the POPs Conven-
22 tion; or

23 “(ii) an acceptable purpose applicable
24 to the United States under Annex B to the
25 POPs Convention; and

1 “(B) would, as a result, not prevent the
2 United States from complying with obligations
3 or potential obligations of the United States
4 with respect to that chemical substance or mix-
5 ture under the POPs Convention.

6 “(2) UNINTENTIONAL TRACE CONTAMI-
7 NANTS.—Prohibitions or restrictions included in
8 rules issued under subsection (e)(1), and the prohi-
9 bitions described in section 502(a), shall not apply
10 to any quantity of a POPs chemical substance or
11 mixture that occurs as an unintentional trace con-
12 taminant in a product or article.

13 “(3) RESEARCH.—Prohibitions or restrictions
14 included in rules issued under subsection (e)(1), and
15 the prohibitions described in section 502(a), shall
16 not apply to any quantity of a POPs chemical sub-
17 stance or mixture that is used for laboratory scale
18 research or as a reference standard.

19 “(4) CONSTITUENT OF ARTICLE IN USE BE-
20 FORE PROHIBITION APPLIED.—Prohibitions or re-
21 strictions included in rules issued under subsection
22 (e)(1), and the prohibitions described in section
23 502(a), shall not apply to any quantity of a POPs
24 chemical substance or mixture that occurs as a con-
25 stituent of an article, if—

1 “(A) the article is manufactured or in use
2 on or before the date of entry into force for the
3 United States of the obligation applicable to the
4 POPs chemical substance or mixture; and

5 “(B) the United States has met any appli-
6 cable requirement of the POPs Convention to
7 notify the Secretariat of the POPs Convention
8 concerning the article.

9 “(5) CLOSED-SYSTEM SITE-LIMITED INTER-
10 MEDIATE EXEMPTION.—

11 “(A) IN GENERAL.—Subject to subpara-
12 graph (B), prohibitions or restrictions included
13 in rules issued under subsection (e)(1), and the
14 prohibitions described in section 502(a), shall
15 not apply to any quantity of a POPs chemical
16 substance or mixture that is manufactured and
17 used as a closed-system site-limited inter-
18 mediate that is chemically transformed in the
19 manufacture of other chemicals that do not ex-
20 hibit the characteristics of persistent organic
21 pollutants.

22 “(B) CONDITIONS.—Subparagraph (A) ap-
23 plies if, before the commencement of the manu-
24 facture or use under the POPs Convention, and
25 before each 10-year period thereafter—

1 “(i) any person that desires to invoke
2 the exemption provides to the Adminis-
3 trator information concerning—

4 “(I) the annual total quantity of
5 the POPs chemical substance or mix-
6 ture anticipated to be manufactured
7 or used, or a reasonable estimate of
8 the quantity; and

9 “(II) the nature of the closed
10 system site-limited process, including
11 the quantity of any nontransformed
12 and unintentional trace contamination
13 by the POPs chemical substance or
14 mixture that remains in the final
15 product; and

16 “(ii) notwithstanding any other provi-
17 sion of law, the Administrator—

18 “(I) determines, with the concur-
19 rence of the Secretary of State, that
20 the information provided under clause
21 (i) is complete and sufficient; and

22 “(II) transmits the information
23 to the Secretariat of the POPs Con-
24 vention.

1 “(C) TERMINATION OF EXEMPTION.—If,
2 at the termination of any exemption under sub-
3 paragraph (A), a particular closed-system site-
4 limited intermediate exemption is no longer au-
5 thorized for the United States under the POPs
6 Convention, no further exemption shall be avail-
7 able under subparagraph (A).

8 “(6) DISTRIBUTION IN COMMERCE FOR EXPORT
9 IF PRODUCTION OR USE-SPECIFIC EXEMPTION OR
10 ACCEPTABLE PURPOSE IS IN EFFECT.—

11 “(A) IN GENERAL.—Prohibitions or re-
12 strictions included in rules issued under sub-
13 section (e)(1), and the prohibitions described in
14 section 502(a), shall not apply to any distribu-
15 tion in commerce for export of any POPs chem-
16 ical substance or mixture for which a produc-
17 tion or use specific exemption under Annex A to
18 the POPs Convention available to the United
19 States is in effect, or for which a production or
20 use specific exemption or acceptable purpose
21 under Annex B to the POPs Convention avail-
22 able to the United States is in effect, unless—

23 “(i) if the export is for purposes of
24 disposal, the export does not comply with
25 an export condition described in subpara-

graph (B), as determined by the Administrator in consultation with the heads of other interested Federal agencies; or

“(ii) the export does not comply with an export condition described in subparagraph (C), or (D), as applicable, as determined by the Administrator in consultation with the heads of other interested Federal agencies and with the concurrence of the Secretary of State and the United States Trade Representative.

“(B) EXPORT FOR ENVIRONMENTALLY SOUND DISPOSAL.—An export condition referred to in subparagraph (A)(i) is that the POPs chemical substance or mixture is exported for the purpose of environmentally sound disposal.

“(C) EXPORT TO PARTY WITH PERMISSION TO USE.—An export condition referred to in subparagraph (A)(ii) is that the POPs chemical substance or mixture is exported to a party to the POPs Convention that is permitted to use the POPs chemical substance or mixture under Annex A or B to the POPs Convention.

1 “(D) EXPORT TO NONPARTY THAT HAS
2 PROVIDED NONPARTY CERTIFICATION.—

3 “(i) IN GENERAL.—An export condi-
4 tion referred to in subparagraph (A)(ii) is
5 that the POPs chemical substance or mix-
6 ture is exported to an importing foreign
7 state that—

8 “(I) is not a party to the POPs
9 Convention with respect to the POPs
10 chemical substance or mixture; and

11 “(II) has provided an annual cer-
12 tification described in clause (ii) to
13 the Administrator.

14 “(ii) COMMITMENTS BY IMPORTING
15 NONPARTY.—Consistent with the POPs
16 Convention, an annual nonparty certifi-
17 cation under clause (i) shall specify the in-
18 tended use of the POPs chemical substance
19 or mixture and state that, with respect to
20 the POPs chemical substance or mixture,
21 the importing nonparty is committed to—

22 “(I) protecting human health and
23 the environment by taking necessary
24 measures to minimize or prevent re-
25 leases;

1 “(II) complying with paragraph
2 1(d) of Article 6 of the POPs Conven-
3 tion; and

4 “(III) complying, to the extent
5 appropriate, with paragraph 2 of Part
6 II of Annex B to the POPs Conven-
7 tion.

8 “(iii) SUPPORTING DOCUMENTA-
9 TION.—Each nonparty certification shall
10 include any appropriate supporting docu-
11 mentation, such as legislation, regulatory
12 instruments, and administrative or policy
13 guidelines.

14 “(iv) SUBMISSION TO SECRETARIAT
15 OF POPS CONVENTION.—Not later than 60
16 days after the date of receipt of a complete
17 nonparty certification, the Administrator
18 shall submit a copy of the nonparty certifi-
19 cation to the Secretariat of the POPs Con-
20 vention.

21 “(E) INFORMATION RELEVANT TO EX-
22 PORTS.—The Administrator, with the concur-
23 rence of the Secretary of State, shall make
24 available to the public, and keep current, a list
25 of—

1 “(i) parties to the POPs Convention;

2 “(ii) production and use specific ex-
3 emptions available to the United States;

4 “(iii) parties to the POPs Convention
5 that are permitted to use each POPs
6 chemical substance or mixture under
7 Annex A or B of the POPs Convention;
8 and

9 “(iv) chemical substances and mix-
10 tures for which no production or use spe-
11 cific exemptions are in effect for any party
12 to the POPs Convention.

13 “(7) EXPORT FOR ENVIRONMENTALLY SOUND
14 DISPOSAL IF NO PRODUCTION OR USE SPECIFIC EX-
15 EMPTION IN EFFECT.—Prohibitions or restrictions
16 included in rules issued under subsection (e)(1), and
17 the prohibitions described in section 502(a), shall
18 not apply to any distribution in commerce for export
19 for the purpose of environmentally sound disposal of
20 a POPs chemical substance or mixture listed in
21 Annex A to the POPs Convention for which no pro-
22 duction or use specific exemption is in effect for any
23 party to the POPs Convention.

24 “(8) IMPORTS FOR ENVIRONMENTALLY SOUND
25 DISPOSAL.—Prohibitions or restrictions included in

1 rules issued under subsection (e)(1), and the prohi-
2 bitions described in section 502(a), shall not apply
3 to a POPs chemical substance or mixture that is im-
4 ported for the purpose of environmentally sound dis-
5 posal.

6 “(9) WASTE.—Prohibitions or restrictions in-
7 cluded in rules issued under subsection (e)(1), and
8 the prohibitions described in section 502(a), shall
9 not apply to any quantity of a POPs chemical sub-
10 stance or mixture, including any article that consists
11 of, contains, or is contaminated with a POPs chem-
12 ical substance or mixture, that has become waste
13 that is otherwise regulated under Federal law.

14 “(10) NO EFFECT ON OTHER PROHIBITIONS.—
15 Nothing in this subsection authorizes any manufac-
16 ture, processing, distribution in commerce for ex-
17 port, use, or disposal of a POPs chemical substance
18 or mixture that is prohibited under any other Act or
19 any other title of this Act.

20 “(g) EXEMPTIONS UNDER LRTAP POPs PRO-
21 TOCOL.—

22 “(1) IN GENERAL.—Prohibitions or restrictions
23 included in rules issued under subsection (e)(1), and
24 the prohibitions described in section 502(a), shall
25 not apply to—

1 “(A) any manufacture, processing, dis-
2 tribution in commerce for export, use, or dis-
3 posal of a LRTAP POPs chemical substance or
4 mixture that—

5 “(i) the Administrator determines,
6 through final rules promulgated under sub-
7 section (e)(1), with the concurrence of the
8 Secretary of State, is consistent with an al-
9 lowed restricted use or condition available
10 to the United States under Annex I or II
11 to the LRTAP POPs Protocol; and

12 “(ii) the Administrator determines,
13 through final rules promulgated under sub-
14 section (e)(1), with the concurrence of the
15 Secretary of State, would, as a result, not
16 prevent the United States from complying
17 with obligations or potential obligations of
18 the United States with respect to that
19 chemical substance or mixture under the
20 LRTAP POPs Protocol;

21 “(B) any quantity of a LRTAP POPs
22 chemical substance or mixture that is used for
23 laboratory scale research or as a reference
24 standard;

1 “(C) any quantity of a LRTAP POPs
2 chemical substance or mixture that occurs as a
3 contaminant in a product;

4 “(D) any quantity of a LRTAP POPs
5 chemical substance or mixture that is in an ar-
6 ticle manufactured or in use on or before—

7 “(i) the implementation date for the
8 United States of any applicable obligation
9 under the LRTAP POPs Protocol; or

10 “(ii) in the case of any LRTAP POPs
11 chemical substance or mixture added to
12 any applicable Annex after the implemen-
13 tation date for the United States of the ap-
14 plicable obligation of the LRTAP POPs
15 Protocol, the implementation date in the
16 amendment to the LRTAP POPs Protocol
17 that makes the addition;

18 “(E) any quantity of a LRTAP POPs
19 chemical substance or mixture that occurs as a
20 site-limited chemical intermediate in the manu-
21 facture of 1 or more different substances and
22 that is subsequently chemically transformed;

23 “(F) the production of HCH, the use of
24 technical HCH (i.e., HCH mixed isomers) as an
25 intermediate in chemical manufacturing, and

1 the use of products in which 99 percent of the
2 HCH isomer is in the gamma form (i.e. lin-
3 dane, CAS:58-89-9) so long as such use is re-
4 stricted to—

5 “(i) seed treatment; and

6 “(ii) public health,

7 unless the Administrator, by rule, restricts the
8 application of this subparagraph consistent with
9 an amendment to the LRTAP POPs Protocol
10 specifically addressing HCH;

11 “(G) any quantity of a LRTAP POPs
12 chemical substance or mixture that has become
13 waste that is otherwise regulated under Federal
14 law;

15 “(H) any distribution in commerce for ex-
16 port of a LRTAP POPs chemical substance or
17 mixture if the distribution in commerce for ex-
18 port is conducted in an environmentally sound
19 manner; or

20 “(I) any import of a LRTAP POPs chem-
21 ical substance or mixture if the import is con-
22 ducted in an environmentally sound manner.

23 “(2) EXEMPTIONS BY ADMINISTRATOR.—The
24 Administrator may grant an exemption from prohi-
25 bitions or restrictions included in rules issued under

subsection (e)(1), and the prohibitions described in section 502(a), that the Administrator, in concurrence with the Secretary of State, determines is consistent with the exemptions authorized under paragraph 2 of Article 4 of the LRTAP POPs Protocol.

“(3) EXEMPTIONS BY PETITION.—

“(A) PETITIONS.—A person may petition the Administrator for an exemption from prohibitions or restrictions included in rules issued under subsection (e)(1), and the prohibitions described in section 502(a).

“(B) GRANT OR DENIAL OF PETITION.—

The Administrator, with the concurrence of the Secretary of State, shall—

“(i) if the petition is authorized for the United States under, and is otherwise consistent with, the LRTAP POPs Protocol, grant the petition with such conditions or limitations as are necessary to meet any requirement of the LRTAP POPs Protocol or any other provision of law; or

“(ii) deny the petition.

“(4) PROVISION OF INFORMATION TO SECRETARIAT.—If the Administrator grants an exemption

1 under paragraph (2) or (3), the Administrator, not
2 later than 90 days after the date on which the ex-
3 emption is granted, shall provide the Secretariat of
4 the LRTAP POPs Protocol with the information
5 specified in paragraph 3 of Article 4 of the LRTAP
6 POPs Protocol.

7 “(5) DISALLOWANCE OF EXEMPTION BY LRTAP
8 POPS PROTOCOL.—

9 “(A) IN GENERAL.—If, after an exemption
10 has been granted under paragraph (2) or (3),
11 the exemption is no longer consistent with the
12 requirements of paragraph (2) or (3), the Ad-
13 ministrator shall withdraw the grant of such ex-
14 emption.

15 “(B) PUBLICATION OF NOTICE IN FED-
16 ERAL REGISTER.—The Administrator shall pub-
17 lish in the Federal Register a notice announcing
18 the withdrawal under subparagraph (A) of any
19 exemption.

20 “(6) NO EFFECT ON OTHER PROHIBITIONS.—
21 Nothing in this subsection authorizes any manufac-
22 ture, processing, distribution in commerce for ex-
23 port, use, or disposal of a LRTAP POPs chemical
24 substance or mixture that is prohibited under any
25 other Act or any other title of this Act.

1 “(h) HARMONIZATION OF POPs CONVENTION AND
2 LRTAP POPs PROTOCOL.—

3 “(1) IN GENERAL.—If a chemical substance or
4 mixture is both a POPs chemical substance or mix-
5 ture and a LRTAP POPs chemical substance or
6 mixture, in the case of a conflict between a provision
7 of subsection (f) applicable to a POPs chemical sub-
8 stance or mixture and a provision of subsection (g)
9 applicable to a LRTAP POPs chemical substance or
10 mixture, the more stringent provision shall apply, as
11 determined by the Administrator with the concur-
12 rence of the Secretary of State.

13 “(2) APPLICATION.—In the case of a chemical
14 substance or mixture described in paragraph (1),
15 subsections (f) and (g) shall be applied in such a
16 manner as to ensure that the United States is in
17 compliance with the POPs Convention and the
18 LRTAP POPs Protocol with respect to the chemical
19 substance or mixture.

20 “(i) ACTION BY THE ADMINISTRATOR UPON ADDI-
21 TION OF SOURCE CATEGORIES.—

22 “(1) APPLICABILITY.—If the Conference de-
23 cides to amend Annex C of the POPs Convention to
24 add to Part II new source categories not already
25 listed under section 112(c) of the Clean Air Act (42

1 U.S.C. 7412(c)) as major source categories, such de-
2 cision shall be published in the Federal Register.

3 “(2) CONFERENCE DECISION NOTICE.—A no-
4 tice of a Conference decision published in the Fed-
5 eral Register pursuant to paragraph (1) of this sub-
6 section shall identify the source category or cat-
7 egories that are the subject of the decision. The no-
8 tice shall include a summary of the Conference deci-
9 sion and request information and public comment.

10 “(j) ACTION PLANS.—

11 “(1) APPLICABILITY.—This subsection applies
12 if the United States—

13 “(A) develops an action plan under Article
14 5(a) of the POPs Convention;

15 “(B) undertakes a review of a submitted
16 action plan under Article 5(a)(v) of the POPs
17 Convention;

18 “(C) requires, under Article 5(c) of the
19 POPs Convention, substitute or modified mate-
20 rials, products, or processes; or

21 “(D) requires, under Article 5(d) of the
22 POPs Convention, the use of best available
23 techniques.

1 “(2) REQUIREMENT.—Not later than 90 days
2 after the date of an action described in paragraph
3 (1), the Administrator shall—

4 “(A) publish in the Federal Register a no-
5 tice of such action; and

6 “(B) provide opportunity for public com-
7 ment on any action plan, review of an action
8 plan, or requirement to be established pursuant
9 to Article 5(c) or (d) of the POPs Convention.

10 “(3) AUTHORITY TO IMPLEMENT ACTION
11 PLAN.—An action to implement an action plan de-
12 veloped under Article 5(a) of the POPs Convention
13 may be taken only to the extent that such action is
14 authorized under the statutes of the United States.

15 “(k) DECISION CONCERNING A RULEMAKING.—If,
16 within 1 year after a decision described in subsection
17 (e)(1)(A)(i) or (ii), the United States has not, pursuant
18 to Article 22 of the POPs Convention or Article 14 of the
19 LRTAP POPs Protocol, deposited its instrument of ratifi-
20 cation, acceptance, accession, or approval with the Con-
21 vention or Protocol’s relevant body, for that chemical sub-
22 stance or mixture, the Administrator shall publish in the
23 Federal Register—

1 “(1)(A) a notice of a decision to initiate a rule-
2 making process regarding the chemical substance or
3 mixture; or

4 “(B) a notice that a rulemaking process regard-
5 ing the chemical substance or mixture will not be
6 initiated and the reason for this decision, including,
7 as appropriate, a discussion of the relevant informa-
8 tion obtained by the Administrator under this sec-
9 tion as well as other factors that the Administrator
10 may have evaluated; or

11 “(2) a notice indicating the status of the Ad-
12 ministrator’s considerations on whether to publish a
13 notice under paragraph (1), and an estimate of the
14 timeframe expected for such a decision.

15 **“SEC. 504. AMENDMENTS AND CONSULTATION.**

16 “(a) CONSENT TO BE BOUND.—It is the sense of the
17 Congress that the United States shall consent to be bound
18 by an amendment to Annex A, B, or C of the POPs Con-
19 vention only after, pursuant to paragraph (4) of Article
20 25 of the POPs Convention, the United States has de-
21 clared that such amendment shall enter into force upon
22 ratification, acceptance, approval, or accession of the
23 United States to such amendment.

24 “(b) CONSULTATION.—

1 “(1) IN GENERAL.—The President shall, as ap-
2 propriate, consult with Congress before consenting
3 to bind the United States to an amendment to
4 Annex A, B, or C of the POPs Convention.

5 “(2) REPORTING.—The President shall provide
6 such other information relating to an amendment
7 described in paragraph (1) as the Congress may re-
8 quest in the fulfillment of its constitutional respon-
9 sibilities with respect to the protection of public
10 health and the environment.

11 “(3) CONGRESSIONAL OVERSIGHT.—Informa-
12 tion provided pursuant to paragraph (2) shall be
13 transmitted to the Committee on Energy and Com-
14 merce of the House of Representatives and to the
15 Committee on Environment and Public Works of the
16 Senate for appropriate action.

17 **“SEC. 505. INTERNATIONAL COOPERATION AND NOTICE OF**
18 **MEETINGS.**

19 “In cooperation with the Secretary of State and the
20 head of any other appropriate Federal agency, the Admin-
21 istrator shall—

22 “(1) participate and cooperate in any inter-
23 national efforts on chemical substances and mix-
24 tures;

1 “(2) participate in technical cooperation and ca-
2 capacity building activities designed to support imple-
3 mentation of—

4 “(A) the POPs Convention;

5 “(B) the LRTAP POPs Protocol; and

6 “(C) the PIC Convention; and

7 “(3) publish in the Federal Register timely ad-
8 vance notice of the known schedule and agenda of
9 meetings on the POPs Convention, PIC Convention,
10 and LRTAP POPs Protocol, and their subsidiary
11 bodies, at which the United States will be rep-
12 resented.

13 **“SEC. 506. EFFECT OF REQUIREMENTS.**

14 “Any provision of this Act that establishes a require-
15 ment to comply with, or that is based on, a provision of
16 the POPs Convention, the LRTAP POPs Protocol, or the
17 PIC Convention shall be effective only to the extent that
18 the United States has consented to be bound by that provi-
19 sion.

20 **“SEC. 507. RULES OF CONSTRUCTION.**

21 “Nothing in this title—

22 “(1) shall be construed to require the United
23 States to register for a specific exemption available
24 to the United States under Annex A or B to the
25 POPs Convention or an acceptable purpose available

1 to the United States under Annex B to the POPs
2 Convention; or

3 “(2) affects the authority of the Administrator
4 to regulate a chemical substance or mixture under
5 any other law or any provision of this Act.”.

6 **SEC. 3. POLYCHLORINATED BIPHENYLS (PCBS).**

7 Section 6(e) of the Toxic Substance Control Act (15
8 U.S.C. 2605(e)) is amended—

9 (1) by adding at the end of paragraph (2) the
10 following new subparagraph:

11 “(D) The Administrator may not, after the date of
12 enactment of this subparagraph, issue a rule authorizing
13 activities, that were not previously authorized, under sub-
14 paragraph (B) unless the activities authorized are con-
15 sistent with the exemptions described in section 503(f) or
16 (g), subject to section 503(h).”;

17 (2) by adding at the end of paragraph (3) the
18 following new subparagraph:

19 “(D) The Administrator may not, after the date of
20 enactment of this subparagraph, grant an exemption
21 under subparagraph (B) unless the manufacturing, proc-
22 essing, or distribution in commerce with respect to which
23 such exemption applies is consistent with the exemptions
24 described in section 503(f) or (g), subject to section
25 503(h).”; and

1 (3) by adding at the end the following new
2 paragraph:

3 “(6) Notwithstanding any other provision of this sub-
4 section, no person may distribute in commerce for export
5 equipment (including transformers, capacitors, and other
6 receptacles) containing greater than 0.05 liters of liquid
7 stock that contains greater than 0.005 percent poly-
8 chlorinated biphenyls, except for the purpose of environ-
9 mentally sound waste management to the extent that such
10 distribution in commerce for export is authorized by Fed-
11 eral law.”.

12 **SEC. 4. JUDICIAL REVIEW.**

13 Section 19 of the Toxic Substances Control Act (15
14 U.S.C. 2618) is amended—

15 (1) in subsection (a)(1)(A), by striking “or IV”
16 and inserting “, IV, or V”;

17 (2) in subsection (a)(3)(B), by striking “title
18 IV, the finding” and inserting “title IV or V, the
19 findings”;

20 (3) by striking “and” at the end of subpara-
21 graph (D) of subsection (a)(3);

22 (4) by redesignating subparagraph (E) of sub-
23 section (a)(3) as subparagraph (F);

24 (5) by inserting after subparagraph (D) of sub-
25 section (a)(3) the following new subparagraph:

1 “(E) for rules promulgated under section
2 503(e), any written submission or other information
3 the Administrator receives pursuant to subsection
4 (a), (b), (c), or (d) of section 503; and”;

5 (6) in subsection (b), by inserting “(except a
6 rule promulgated pursuant to section 503)” after
7 “this section to review a rule”; and

8 (7) in subsection (c)(1)(B)(i), by striking “or
9 6(e)” and inserting “6(e), or 503(e)(1)”.

10 **SEC. 5. EXPORTS.**

11 Section 12 of the Toxic Substances Control Act (15
12 U.S.C. 2611) is amended—

13 (1) in subsection (a)(1), by striking “subsection
14 (b), this Act (other than section 8)” and inserting
15 “subsections (b) and (c), this Act (other than section
16 8 and title V)”; and

17 (2) by adding at the end the following new sub-
18 section:

19 “(c) EXPORTS UNDER THE PIC CONVENTION AND
20 POPs CONVENTION.—

21 “(1) EXPORT CONDITIONS OR RESTRICTIONS.—

22 In the case of a chemical substance or mixture iden-
23 tified by the Administrator as listed on Annex III of
24 the PIC Convention in a notice issued under para-
25 graph (4)(C), any person that distributes in com-

merce for export the chemical substance or mixture shall comply with any export conditions or restrictions identified by the Administrator in the notice.

“(2) PRE-EXPORT NOTICES.—

“(A) IN GENERAL.—

“(i) REQUIREMENT.—In the case of—

“(I) a chemical substance or mixture that the Administrator determines to be banned or severely restricted under paragraph (4)(A);

“(II) a chemical substance or mixture identified by the Administrator in a notice issued under paragraph (4)(C); or

“(III) a POPs chemical substance or mixture (for which a listing under Annex A or Annex B of the POPs Convention has entered into force for the United States), the export of which is not prohibited by section 502(a) or rules promulgated pursuant to section 503(e),

the exporter of the chemical substance or mixture shall provide to the Administrator

1 notice of the intent of the exporter to ex-
2 port the chemical substance or mixture.

3 “(ii) TIMING OF NOTICE FOR CHEM-
4 ICAL SUBSTANCES OR MIXTURES THAT ARE
5 BANNED OR SEVERELY RESTRICTED.—

6 “(I) FIRST EXPORT.—In the case
7 of a first export that an exporter
8 makes from the United States to each
9 importing foreign state after the Ad-
10 ministrator issues a notice under
11 paragraph (4)(A), the exporter shall
12 provide the notice required under
13 clause (i) so that the Administrator
14 receives the notice not earlier than 45
15 nor later than 15 calendar days before
16 the date of export.

17 “(II) SUBSEQUENT EXPORTS.—
18 In the case of subsequent exports to
19 the importing foreign state in cal-
20 endar years subsequent to the notifi-
21 cation provided under subclause (I),
22 the exporter shall provide the notice
23 so that the Administrator receives the
24 notice not earlier than 45 nor later
25 than 15 calendar days before the date

1 of the first export in such calendar
2 year.

3 “(iii) TIMING OF NOTICE FOR CHEM-
4 ICAL SUBSTANCES OR MIXTURES LISTED
5 UNDER THE PIC CONVENTION.—

6 “(I) FIRST EXPORT.—In the case
7 of a first export that an exporter
8 makes from the United States to each
9 importing foreign state after the Ad-
10 ministrator issues a notice under
11 paragraph (4)(C), the exporter shall
12 provide the notice required under
13 clause (i) so that the Administrator
14 receives the notice not earlier than 45
15 nor later than 15 calendar days before
16 the date of export.

17 “(II) SUBSEQUENT EXPORTS.—
18 In the case of subsequent exports by
19 the exporter to the importing foreign
20 state in calendar years subsequent to
21 the notification provided under sub-
22 clause (I), the exporter shall provide
23 the notice so that the Administrator
24 receives the notice not earlier than 45

1 nor later than 15 calendar days before
2 the date of the first such export.

3 “(III) CHANGED CIRCUMSTANCES
4 MERITING NEW NOTICE.—If condi-
5 tions or restrictions imposed by the
6 importing foreign state change and
7 the Administrator notifies the public
8 of the change under paragraph
9 (4)(C), or if circumstances described
10 by the exporter in an earlier pre-ex-
11 port notice have substantially
12 changed, the exporter shall provide an
13 additional notice under this subpara-
14 graph so that the Administrator re-
15 ceives the notice not earlier than 45
16 nor later than 15 calendar days before
17 the date of export.

18 “(iv) TIMING OF PRE-EXPORT NOTICE
19 FOR THE EXPORT OF POPS CHEMICAL SUB-
20 STANCES OR MIXTURES WHICH ARE NOT
21 PROHIBITED UNDER THE POPS CONVEN-
22 TION.—

23 “(I) FIRST EXPORT.—In the case
24 of the first export that an exporter
25 makes from the United States to each

1 importing foreign state of a chemical
2 substance or mixture not prohibited
3 from being exported by the prohibition
4 in section 502(a) or rules promulgated
5 pursuant to section 503(e), the ex-
6 porter shall provide the notice under
7 this subparagraph so that the Admin-
8 istrator receives the notice not earlier
9 than 45 nor later than 15 calendar
10 days before the date of the first ex-
11 port.

12 “(II) SUBSEQUENT EXPORTS.—

13 In the case of subsequent exports by
14 the exporter to the importing foreign
15 state in calendar years subsequent to
16 the notification provided under sub-
17 clause (I), the exporter shall provide
18 the notice so that the Administrator
19 receives the notice not earlier than 45
20 nor later than 15 calendar days before
21 the date of the first such subsequent
22 export in such calendar year.

23 “(III) CHANGED CIRCUMSTANCES

24 MERITING NEW NOTICE.—If the cir-
25 cumstances described by the exporter

1 in an earlier pre-export notice have
2 substantially changed, the exporter
3 shall provide an additional notice
4 under this subparagraph so that the
5 Administrator receives the notice not
6 earlier than 45 nor later than 15 cal-
7 endar days before the date of export.

8 “(B) ALTERNATE TIME FRAME FOR NO-
9 TICES.—

10 “(i) DISCRETIONARY ALTERNATE
11 TIME FRAMES.—Notwithstanding clauses
12 (ii) and (iii) of subparagraph (A), the Ad-
13 ministrator may set an alternate time
14 frame for providing notices under this sub-
15 paragraph if the Administrator determines
16 that such alternate time frame is appro-
17 priate and the Administrator is able, with-
18 in such alternate time frame, to administer
19 notice activities in accordance with the PIC
20 Convention and comply with the POPs
21 Convention.

22 “(ii) MANDATORY REVIEW OF STATU-
23 TORY TIME FRAMES AND PROCESSES.—
24 Not later than 18 months after entry into
25 force for the United States of the PIC

1 Convention, and not later than 18 months
2 after entry into force for the United States
3 of the POPs Convention, the Adminis-
4 trator shall review the statutory time
5 frames for receipt of pre-export notices
6 under this subparagraph and the Adminis-
7 trator's processing of such notices. In such
8 review, the Administrator, with the concur-
9 rence of the Secretary of State, shall con-
10 sider whether amendments to the time
11 frames and modifications to the processes
12 would be appropriate to administer notice
13 activities in accordance with the PIC Con-
14 vention and to comply with the POPs Con-
15 vention.

16 “(C) CONTENT OF PRE-EXPORT NO-
17 TICES.—

18 “(i) NOTICES FOR BANNED OR SE-
19 VERELY RESTRICTED CHEMICAL SUB-
20 STANCE OR MIXTURE.—A notice under
21 subparagraph (A)(ii) with respect to a
22 chemical substance or mixture that is
23 banned or severely restricted shall include
24 for each export anticipated during that cal-
25 endar year—

1 “(I) the name and address of the
2 exporter;

3 “(II) the name and address of
4 the appropriate designated national
5 authority of the United States;

6 “(III) the name and address of
7 the appropriate designated national
8 authority of the importing foreign
9 state, if available;

10 “(IV) the name and address of
11 the importer;

12 “(V) the name of the chemical
13 substance or mixture for which the
14 notice is required;

15 “(VI) the expected date of ex-
16 port;

17 “(VII) information relating to
18 the foreseen uses of the chemical sub-
19 stance or mixture, if known, in the
20 importing foreign state;

21 “(VIII) information on pre-
22 cautionary measures, consistent with
23 the ban or severe restriction applica-
24 ble to the United States under the
25 PIC Convention, to reduce exposure

1 to, and emission of, the chemical sub-
2 stance or mixture;

3 “(IX) information relating to the
4 concentration of the chemical sub-
5 stance or mixture; and

6 “(X) any other information that
7 the Administrator determines, in a
8 general order published in the Federal
9 Register, is required by Annex V of
10 the PIC Convention to be included in
11 such a notice.

12 “(ii) NOTICES FOR CHEMICAL SUB-
13 STANCES OR MIXTURES LISTED ON ANNEX
14 III OF THE PIC CONVENTION.—A notice
15 under subparagraph (A)(ii) with respect to
16 a chemical substance or mixture listed on
17 Annex III of the PIC Convention shall in-
18 clude for each export anticipated during
19 that calendar year—

20 “(I) all of the information re-
21 quired to be included under clause (i);

22 “(II) any information relating to
23 export conditions or restrictions iden-
24 tified by the Administrator in the no-
25 tice issued under paragraph (4)(C)

1 with respect to the chemical substance
2 or mixture;

3 “(III) a general description of
4 the manner in which the export com-
5 plies with those conditions; and

6 “(IV) any other information that
7 the Administrator determines by gen-
8 eral order published in the Federal
9 Register to be necessary for effective
10 enforcement of the export conditions
11 or restrictions applicable to the chem-
12 ical substance or mixture.

13 “(iii) NOTICES FOR CHEMICAL SUB-
14 STANCE OR MIXTURE THE EXPORT OF
15 WHICH IS NOT PROHIBITED UNDER THE
16 POPS CONVENTION.—A notice submitted to
17 the Administrator under subparagraph
18 (A)(iii) shall include—

19 “(I) the name and address of the
20 exporter;

21 “(II) the name and address of
22 the importer;

23 “(III) a name of the POPs chem-
24 ical substance or mixture;

1 “(IV) a general description of
2 how the export is in accordance with
3 the provisions related to export in sec-
4 tion 503(f)(6) or (7); and

5 “(V) such other information as
6 the Administrator determines by gen-
7 eral order published in the Federal
8 Register to be necessary for enforce-
9 ment of the export-related obligations
10 of the POPs Convention applicable to
11 the United States for that chemical
12 substance or mixture.

13 “(D) PRE-EXPORT NOTICES ACCOM-
14 PANYING EACH EXPORT.—An exporter shall en-
15 sure that a copy of the most recent applicable
16 pre-export notice provided to the Administrator
17 under this subsection accompanies each ship-
18 ment for export and is available for inspection
19 upon export for—

20 “(i) any chemical substance or mix-
21 ture that the Administrator has identified
22 under paragraph (4)(C) as being listed on
23 Annex III of the PIC Convention; or

24 “(ii) any POPs chemical substance or
25 mixture that is exported.

1 “(E) RETENTION OF PRE-EXPORT NO-
2 TICES.—An exporter required to provide a no-
3 tice under subparagraph (A) shall maintain a
4 copy of the notice and other documents used to
5 generate the notice and have it readily available
6 for a period of no less than 3 years beginning
7 on the date on which the notice is provided.

8 “(3) LABELING AND DOCUMENT REQUIRE-
9 MENTS.—

10 “(A) IN GENERAL.—In the case of any
11 chemical substance or mixture that is the sub-
12 ject of a notice issued under subparagraph (A)
13 or (C) of paragraph (4) and that is manufac-
14 tured, processed, or distributed in commerce,
15 the chemical substance or mixture shall, as re-
16 quired by the PIC Convention—

17 “(i) bear labeling information relating
18 to risks or hazards to human health or the
19 environment; and

20 “(ii) be accompanied by shipping doc-
21 uments that include any relevant safety
22 data sheets on the chemical substance or
23 mixture.

24 “(B) CUSTOM CODES.—A chemical sub-
25 stance or mixture that is the subject of a notice

1 issued under paragraph (4)(C) and that is dis-
2 tributed or sold for export shall be accompanied
3 by shipping documents that bear, at a min-
4 imum, any appropriate harmonized system cus-
5 toms codes assigned by the World Customs Or-
6 ganization.

7 “(4) NOTICE REQUIREMENTS AND EXEMP-
8 TION.—

9 “(A) DETERMINATION WHETHER CHEM-
10 ICAL SUBSTANCE OR MIXTURE IS BANNED OR
11 SEVERELY RESTRICTED.—

12 “(i) IN GENERAL.—The Adminis-
13 trator, with the concurrence of the Sec-
14 retary of State, shall determine whether a
15 chemical substance or mixture is banned or
16 severely restricted within the United States
17 (as those terms are defined by the PIC
18 Convention).

19 “(ii) NOTICE OF DETERMINATIONS.—
20 Notwithstanding any other provision of
21 law, the Administrator shall issue to the
22 Secretariat of the PIC Convention and the
23 public a notice of each determination
24 under clause (i) that includes—

1 “(I) in the case of a notice to the
2 Secretariat of the PIC Convention,
3 the information specified in Annex I
4 to the PIC Convention; and

5 “(II) in the case of a notice to
6 the public, at a minimum, a summary
7 of that information.

8 “(B) NOTICE TO FOREIGN COUNTRIES.—

9 “(i) IN GENERAL.—Notwithstanding
10 any other provision of law, with respect to
11 a chemical substance or mixture that is
12 banned or severely restricted under para-
13 graph (2)(A)(ii), the Administrator shall
14 provide to the designated authority of the
15 importing foreign state a copy of the
16 preexport notice it determines represents
17 the first export to the importing foreign
18 state after a determination under subpara-
19 graph (A) that the chemical substance or
20 mixture is banned or severely restricted
21 and, thereafter, the preexport notice it de-
22 termines represents the first export in each
23 calendar year to the importing foreign
24 state.

1 “(ii) NONIDENTIFIED DESIGNATED
2 NATIONAL AUTHORITY.—In a case in
3 which a designated national authority has
4 not been identified, the Administrator shall
5 provide the notice of intent to export to
6 any other appropriate official of the im-
7 porting foreign state, as identified by the
8 Administrator.

9 “(C) NOTICE TO PUBLIC.—

10 “(i) IN GENERAL.—The Adminis-
11 trator, with the concurrence of the Sec-
12 retary of State, shall issue a notice to in-
13 form the public of—

14 “(I) any chemical substance or
15 mixture that is listed on Annex III to
16 the PIC Convention and the condi-
17 tions and restrictions applicable there-
18 to; and

19 “(II) any condition or restriction
20 of an importing foreign state that is
21 applicable to the import, in accord-
22 ance with the PIC Convention, of the
23 chemical substance or mixture.

24 “(ii) TIMING.—A notice required
25 under clause (i) shall be issued not later

1 than 90 days after, and any conditions or
2 restrictions described in clause (i)(II) shall
3 take effect not later than 180 days after,
4 the date of receipt of a notice, from the
5 Secretariat of the PIC Convention, that—

6 “(I) transmits import decisions of
7 the parties to the PIC Convention; or

8 “(II) provides notice of the fail-
9 ure of the parties to provide import
10 decisions.

11 “(iii) TREATMENT OF CONDITIONS
12 AND RESTRICTIONS.—A condition or re-
13 striction identified by a notice required
14 under clause (i) shall be considered to be
15 an export condition or restriction for the
16 purpose of paragraph (1).

17 “(D) NOTICE OF EXEMPTION.—The Ad-
18 ministrator may issue a notice exempting any
19 chemical substance or mixture from the require-
20 ments of paragraphs (1) through (3), and sub-
21 paragraph (B) of this paragraph, if the Admin-
22 istrator determines, with the concurrence of the
23 Secretary of State, that the exemption would be
24 consistent with the PIC Convention or the
25 POPs Convention.

1 “(5) CONSOLIDATION OF NOTICES.—With re-
 2 spect to any pre-export notice requirement under
 3 this subsection, the Administrator shall allow any
 4 such requirement, and any pre-export notice require-
 5 ment in other provisions of this Act, to be satisfied
 6 by a single notice.

7 “(6) TRACE CONCENTRATIONS.—The Adminis-
 8 trator shall allow the export of trace concentrations
 9 of otherwise restricted or banned chemicals without
 10 notification if the Administrator finds that the ex-
 11 port of such concentrations without notification does
 12 not pose a significant threat to human health or the
 13 environment and is not inconsistent with the PIC
 14 Convention, the POPs Convention, and the LRTAP
 15 POPs Protocol.”.

16 **SEC. 6. CONFORMING AMENDMENTS.**

17 (a) The table of contents in section 1 of the Toxic
 18 Substances Control Act is amended by adding at the end
 19 the following:

“TITLE V—IMPLEMENTATION OF INTERNATIONAL AGREEMENTS

“Sec. 501. Definitions

“Sec. 502. Implementation of POPs Convention and LRTAP POPs Protocol

“Sec. 503. Notice, information, rulemaking, and exemptions

“Sec. 504. Amendments and consultation

“Sec. 505. International cooperation and notice of meetings

“Sec. 506. Effect of requirements

“Sec. 507. Rules of construction”.

20 (b) Section 11 of the Toxic Substances Control Act
 21 (15 U.S.C. 2610) is amended in subsections (a) and (b)

1 by striking “title IV” each place it appears and inserting
2 “title IV or title V”.

3 (c) Section 15 of the Toxic Substances Control Act
4 (15 U.S.C. 2614) is amended—

5 (1) in paragraph (1), by inserting “or any re-
6 quirement prescribed under title V or rule or order
7 promulgated or issued under title V” after “under
8 title II”; and

9 (2) in paragraph (2), by inserting “, or any re-
10 quirement prescribed under title V or rule or order
11 promulgated or issued under title V” after “under
12 section 5 or 7”.

13 (d) Section 17 of the Toxic Substances Control Act
14 (15 U.S.C. 2616) is amended—

15 (1) in subsection (a)(1)—

16 (A) by striking subparagraph (B) and in-
17 serting the following:

18 “(B) restrain any person from taking any ac-
19 tion prohibited by section 5 or 6, or title IV or V
20 (or a rule or order issued under any of those sec-
21 tions or titles);”;

22 (B) in subparagraphs (A) and (C), by
23 striking the comma at the end and inserting a
24 semicolon; and

25 (C) in subparagraph (D)—

1 (i) by striking “title IV manufac-
2 tured” and inserting “title IV or V manu-
3 factured”; and

4 (ii) by striking “section 5, 6, or title
5 IV” each place it appears and inserting
6 “section 5 or 6, or title IV or V”; and

7 (2) in the first sentence of subsection (b), by in-
8 serting “or V” after “title IV”.

9 (e) Section 18 of the Toxic Substances Control Act
10 (15 U.S.C. 2617) is amended—

11 (1) by amending subsection (a)(2)(B) to read
12 as follows:

13 “(B) if—

14 “(i) the Administrator prescribes a rule or
15 order under section 5 or 6 (other than a rule
16 imposing a requirement described in subsection
17 (a)(6) of section 6) which is applicable to a
18 chemical substance or mixture, and which is de-
19 signed to protect against a risk of injury to
20 health or the environment associated with such
21 substance or mixture; or

22 “(ii) the United States has consented to be
23 bound under the POPs Convention or LRTAP
24 POPs Protocol with respect to a POPs chemical
25 substance or mixture or LRTAP POPs chem-

1 ical substance or mixture (as defined in section
2 501), and a rule or order under section 503(e)
3 has become effective,
4 no State or political subdivision of a State may,
5 after the effective date of such rule or order or con-
6 sent, establish or continue in effect any requirement,
7 which is applicable to such substance or mixture, or
8 an article containing such substance or mixture, and
9 which is designed to protect against a risk of injury
10 to health or the environment associated with such
11 substance or mixture that the rule, order, or consent
12 is designed to protect against, unless such require-
13 ment is identical to the requirement prescribed by
14 the Administrator, is adopted under the authority of
15 the Clean Air Act or any other Federal law, or pro-
16 hibits the use of such substance or mixture in such
17 State or political subdivision (other than its use in
18 the manufacture or processing of other substances
19 or mixtures).”; and

20 (2) by adding at the end the following new sub-
21 section:

22 “(c) SAVINGS.—Nothing in this section shall be con-
23 strued to authorize a State to act in a manner that causes
24 the United States to be out of compliance with its obliga-
25 tions under the POPs Convention or LRTAP POPs Pro-

1 tocol. For purposes of this section, the terms ‘POPs Con-
2 vention’ and ‘LRTAP POPs Protocol’ have the meaning
3 given those terms in section 501.”.

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